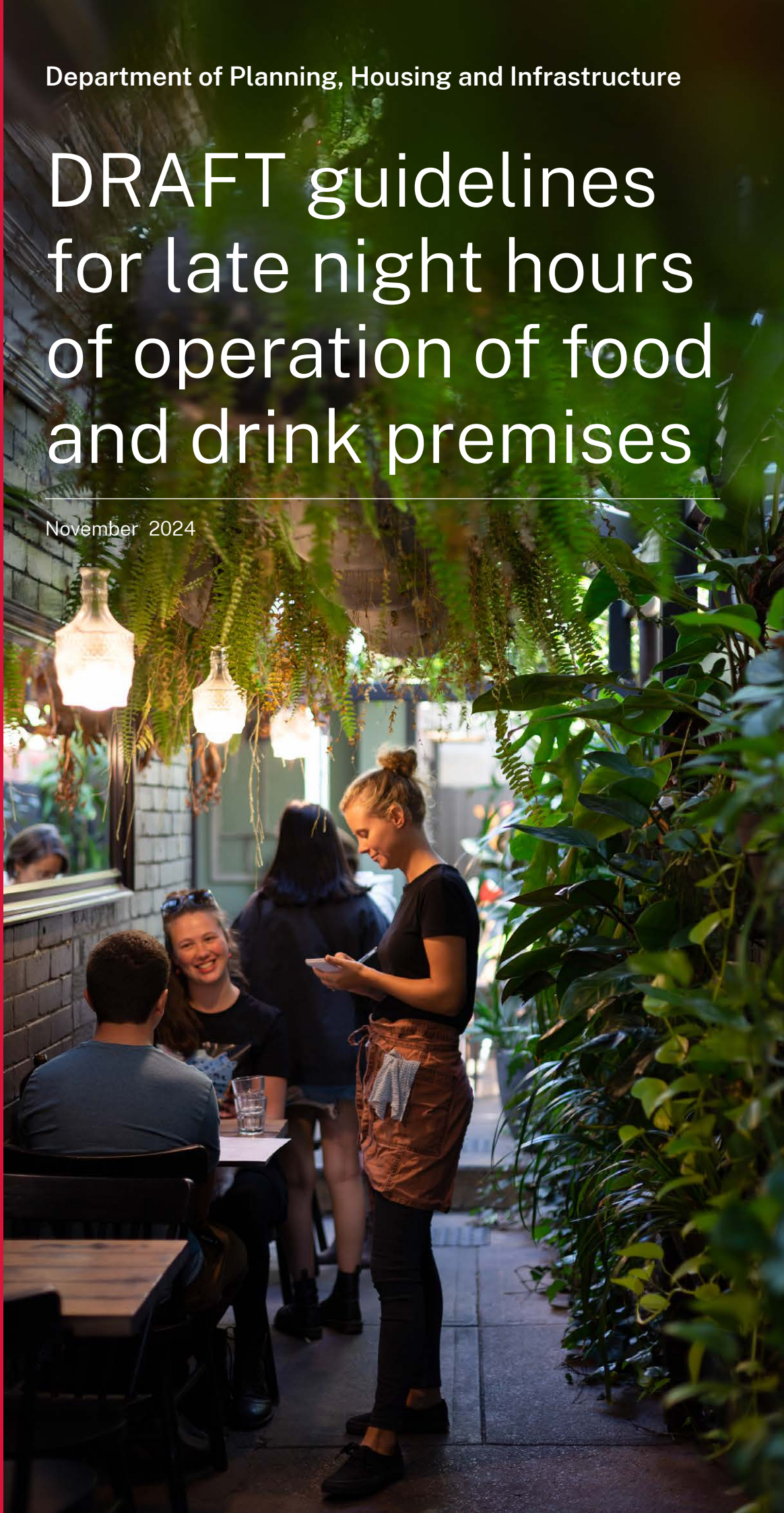


DRAFT guidelines for late night hours of operation of food and drink premises

November 2024





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Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Published by NSW Department of Planning, Housing and Infrastructure

dphi.nsw.gov.au

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First published: November 2024

Department reference number: CM9 SF24/91899

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ZDPHI-MC-R-LC-V1.0

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1 Introduction

The NSW Government is committed to boosting NSW's night-time economy to allow venues to reach their full social, business and cultural potential. Part of the government's vibrancy reform agenda is to support venues to create a thriving economy across NSW.

This guideline will help consent authorities make decisions regarding new development or modification applications for the extended trading hours of a food and drink premises located more than 500 metres from homes (known as an 'extended trading hours application').

This guideline has been created under Schedule 8, clause 3 of the NSW Environmental Planning and Assessment Act 1979 and issued by the Secretary of the Department of Planning, Housing and Infrastructure.

The guideline outlines what consent authorities should consider when assessing an extended trading hours application. The aim is to balance the NSW Government's vibrancy reform agenda with other considerations such as noise and local amenity as part of the development assessment process. It does not stipulate when a consent authority should refuse or approve an application.

2 When this guideline applies

This guideline applies when a consent authority assesses a development or modification application where the proposed hours of operation are sought beyond 7 pm on any night of the week for a 'relevant food and drink premises'. The premises must:

- not be located in a special entertainment precinct (as defined in section 202 of the NSW [Local Government Act 1993](#))
- or
- not be located within land zoned as residential
 - be situated on land which is 500 metres or more away from the nearest residential dwelling.

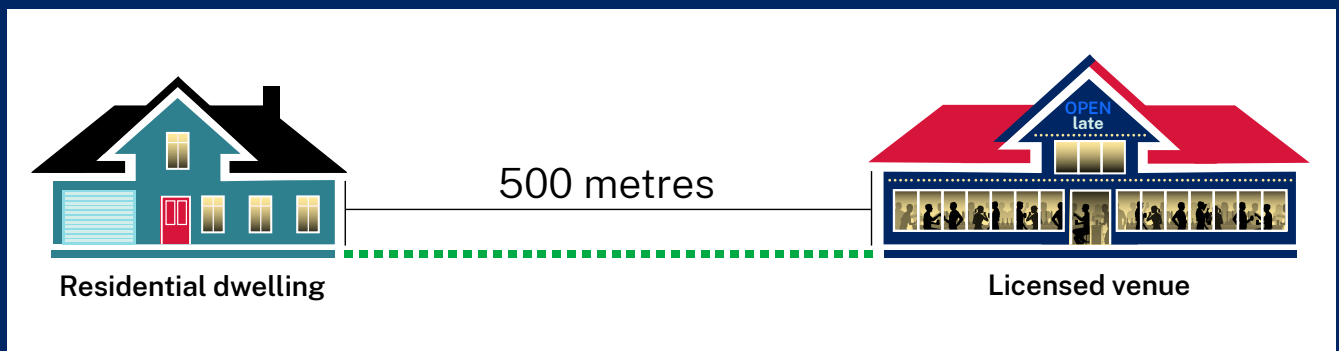
Consent authorities must consider this guideline when assessing an extended trading hours application submitted from [commencement date].

Food and drink businesses and communities can use this guideline to understand how a consent authority will assess an extended trading hours application.



Calculating distance from the nearest residential dwelling

We recommend that consent authorities measure the distance from the venue to the nearest residential dwelling structure. Consent authorities can refer to the NSW Environmental Protection Authority's [Noise Guide for Local Government](#) for more information.



3 Considerations for consent authorities

This section outlines what consent authorities should consider when assessing an extended trading hours application. Consent authorities can use this guideline in conjunction with their local strategies, policies and development controls plans to support the night-time economy.

3.1 Venue and local context

When assessing an extended trading hours application, consent authorities should consider the proposed operation, the venue's characteristics and the local context.

Consent authorities should support an extended trading hours application where:

- matters, such as the sale of alcohol, are managed under other approvals, such as the venue's liquor licence
- the venue's land use is suitable for extended trading hours
- the venue's extended trading hours are consistent with or compatible with other night-time uses in the local area

- a majority of nearby residents, businesses and other stakeholders support the extended trading hours
- the applicant can demonstrate the extended trading is appropriate to the place and context.

Consent authorities may also consider how the application addresses:

- the venue's proximity to residential dwellings and sensitive land uses
- the venue operator's/owner's record, including advice from Liquor & Gaming NSW, NSW Police and internal council teams
- accessibility to public transport, rideshare services and car parking during the extended trading hours
- the venue's liquor licence and the standard trading hours available.



3.2 Amenity impacts

Consent authorities should work with venues to minimise amenity impacts while supporting later trading in local areas.

Consent authorities should support an extended trading hours application where:

- there are no significant impacts on neighbours and the local environment
- the applicant has identified potential amenity impacts and demonstrated how they will be mitigated and controlled through a plan of management
- the venue has appropriate waste handling and management procedures in place.

Consent authorities may also consider how the application addresses:

- impacts on the local public domain
- crime prevention and the safety of staff, patrons and residents during the extended hours
- management of patron behaviour and/or vehicle movements while in and leaving the venue
- the balance of lighting to enhance patron safety while reducing light spill on neighbours and nearby ecological communities.

Consent authorities could consider the use of trial periods for extended trading hours applications to assess the venue's amenity impacts.

3.3 Noise management

Night-time venues can create entertainment-related noise as part of their normal activities. We encourage venues and consent authorities to collaborate to manage noise effectively, balancing the benefits of a night-time economy with local amenity.

Consent authorities should support an extended trading hours application where:

- there are no significant acoustic impacts on neighbours and the local environment
- there are any current conditions of consent to manage noise from the venue, in consideration of the cessation of certain noise conditions on 1 July 2024 for licensed venues
- surrounding late night businesses (more than 500 metres from a residential dwelling) have similar hours of operation.

Consent authorities may also consider how the application addresses:

- the patron capacity in indoor and/or outdoor areas
- that a licensed venue's noise conditions have ceased and noise complaints are managed by Liquor & Gaming NSW (visit the [Liquor & Gaming website](#) for more information)
- the noise management of patrons, entertainment, waste removal and deliveries during the extended trading hours
- adjacent businesses, residential properties and any sensitive receivers more than 500 metres from residential dwellings.



3.4 Social and economic benefits

Late-night venues benefit local economies and provide social and cultural opportunities to residents, businesses and visitors. They are an important part of NSW's social fabric. Consent authorities should consider an extended trading hours application's social and economic benefits during its assessment.

Consent authorities should support an extended trading hours application where several of the following are demonstrated:

- The venue will contribute to the local night-time economy and provide employment opportunities
- The venue provides live music, entertainment or cultural performances
- The application aligns with the council's night-time economy or cultural strategies or policies
- The application aligns with the NSW Government's agenda for a vibrant night-time economy
- The application supports the viability of local businesses and their suppliers
- The application contributes to the local visitor economy.

4 Appendix:

Glossary of key terms

Term	Definition
Consent authority	<p>An authority that is declared to assess a particular type of development application</p> <p>A consent authority can include the council, Minister for Planning and Public Spaces or a public agency.</p>
Extended hours of operation	<p>The hours of operation that extend beyond 7 pm on any night of the week</p> <p>See the NSW Environmental Planning and Assessment Amendment (Vibrancy Reforms) Act 2024.</p>
Food and drink premises	<p>Premises used for preparing and retail selling of food or drink (or both) for immediate consumption on or off the premises, including:</p> <ul style="list-style-type: none"> • a restaurant or café • takeaway food and drink premises • a pub • a small bar. <p>See the Standard Instrument – Principal Local Environmental Plan for individual definitions.</p>
Night-time economy	Any business or social activities taking place between 6 pm and 6 am
Patron capacity	The number of people allowed within a venue as per the development consent and/or liquor licence
Plan of Management	A summary document that outlines the safety measures and operations of a venue
Residential zones	<p>Within the meaning of the Standard Instrument (Local Environmental Plan) Order 2006, includes the following land uses:</p> <ul style="list-style-type: none"> • R1 – General Residential • R2 – Low Density Residential • R3 – Medium Density Residential • R4 – High Density Residential • R5 – Large Lot Residential
Sensitive receiver	A premise that can be sensitive to noise, such as neighbouring residential dwellings, businesses and schools
Special entertainment precinct	Has the same meaning as within section 202 of the NSW Local Government Act 1993

